

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA

v.

NESLY CINEUS

Defendant.

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Case No. 8:24-MJ-364 (ML)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 10, 2024 in the county of Clinton in the Northern District of New York

the defendant violated:

Code Section

8 U.S.C. § 1326(a)

Offense Description

NESLYCINEUS, an alien, native and citizen of Haiti, being an alien who has been denied admission, excluded, deported, or removed, or have departed the United States while an order of exclusion, deportation, or removal is outstanding, entered and was thereafter found in the United States without the Attorney General of the United States, or his successor, the Secretary of Homeland Security, having expressly consented to his reapplication for admission into the United States.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

 8-12-24
1400

Complainant's signature

U.S. Border Patrol Agent Dustin M. Matthews

Printed name and title

Attested to by the Affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: August 12, 2024



Judge's signature

City and State: Binghamton, New York

Hon. Miroslav Lovric, U.S. Magistrate Judge

Printed name and title

Continuation Sheet, United States v. NESLY CINEUS.

This criminal complaint is based on the following facts:

On August 9, 2024, at approximately 11:50 PM, Swanton Sector Border Patrol Dispatch notified Border Patrol Agents assigned to the Burke Border Patrol Station that they had been contacted by Royal Canadian Mounted Police about possible border crossing activity north of Liberty Pole Road in Churubusco, New York. Agents responded to the area and positioned themselves south of Liberty Pole Road to cover the possible points of egress. Liberty Pole Road is a dead-end road that is frequently utilized for smuggling activity due to its proximity to the United States/Canada International Border and its remoteness.

On August 10, 2024, at approximately 2:10 AM, a gray Volkswagen Jetta bearing NY registration LKR7814 was seen by agents driving north on New York State Route 189 towards Liberty Pole Road. The Jetta was clearly occupied by only one adult male that was operating the car and the windows were clear. Roughly four minutes later, the Jetta was detected via electronic surveillance equipment travelling east on Liberty Pole Road. Approximately 15 minutes later, the same gray Volkswagen Jetta was seen by agents driving back south on New York State Route 189. Agents could see the vehicle coming south and had activated the take-down lights on a marked Border Patrol service vehicle to get a clear look at the Jetta. As the Jetta passed, it was plainly visible that the windows were very fogged up. Based on the experience of the agents, fogged windows indicate that there were several individuals in the vehicle who were likely wet from being in the rain earlier in the night.

Agents pulled out behind the vehicle as it accelerated well beyond the posted speed limit to approximately 85 miles per hour. Agents were able to catch up to the vehicle and as they did, the Jetta abruptly slowed to 55 miles per hour. Based on the suspicious route of travel, the quick turnaround time, the early morning hour and the fogged-up windows that were clearly a change from the first time the Jetta was initially observed, agents activated their emergency lights and sirens in attempt to execute a vehicle stop. The vehicle did not accelerate away from agents at this point, however, it did not immediately yield. Agents followed the Jetta for approximately one quarter mile at the posted speed limit and the Jetta eventually yielded about one mile north of the intersection of Lagree Road and New York State Route 189 in the town of Churubusco, New York.

Agents approached the vehicle and identified themselves as Border Patrol Agents. Agents could clearly see now that there were three other individuals in the car. The contact agent asked the driver where he was coming from and he responded that he had gotten into a fight with his girlfriend and was out looking for her. The agent then asked the driver which one of the individuals in the car was his girlfriend and he responded none of them. The agent then asked the passengers in the vehicle to state their citizenship. The front seat passenger claimed to be from Haiti. The passenger side backseat passenger claimed to be from the Bahamas and the driver side rear passenger claimed to be from Haiti. The driver, later identified with initials B.T.B, was detained in a marked Border Patrol service vehicle so agents could interview the passengers in the vehicle. All passengers in the vehicle claimed to have, earlier in the night, crossed the United States/Canada International Border illegally. None of them were in possession of any documents that would allow them to enter, pass through, or remain in the United States legally. At this time all occupants of the Jetta were placed under arrest and transported to the Burke Border Patrol Station for further interviews, record checks and processing.

At the station, record checks confirmed information that was previously gathered roadside.

At the station, records checks confirmed that CINEUS is a Haitian citizen with no legal right to be in the U.S., and that he had been ordered removed from the United States on August 16, 2023, in Blaine, Washington. CINEUS departed the United States to Canada on November 11, 2023, under the Safe Third Country Act.

Continuation Sheet, United States v. NESLY CINEUS.

CINEUS did not obtain the express consent of the Attorney General of the United States, or his successor, the Secretary of Homeland Security, to reapply for admission to the United States.

At the station CINEUS was read his *Miranda* rights and agreed to answer questions without an attorney present. CINEUS stated that he knew entering in the manner that he did was illegal. CINEUS stated that when the driver (B.T.B.) showed up he told him that he was the taxi and to get in. CINEUS said that he was supposed to pay the driver \$500 USD once he arrived at his destination.